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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/740,486
Filing Date: December 22, 2003
Appellant(s): VANDERHYE, ROBERT A.

Robert A. Vanderhye
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 28 February 2008 appealing from the
Office action mailed 27 December 2007

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,749,282

Kohno

6-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 5-10, 12-17, and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abram et al. (US 2002/0003631), hereafter referred to as Abram.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abram et al in view of Kohno (US 6,749,282).

For completeness, the rejection as set forth in the Final Office Action, mailed December 27, 2007, is duplicated below.

Claims 1, 3, 5-10, 12-17, and 20-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Abram et al. (US 2002/0003631).

Regarding Claim 1, Abram et al teach a method of producing a piece of artwork using a computer-controlled color printer capable of printing at least three colors (the line-art image may be rendered from the digital image) (page 2, paragraph [0025]) (the color index number and color is printed with the coloring book image) (page 2, paragraph [0028]) (not *the name of the color*), comprising: a) inputting or selecting a multicolor image so that it is provided in the computer (user loads a digital image into a client) (page 2, paragraph [0025]); b) selectively disabling one or more of the colors, while not disabling all of the colors besides black, of the printer to insure little or none of the one or more disabled colors is printed by the printer (a fixed or programmable palette of colors may be assigned

to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]) (*it is being interpreted by the examiner that only those colors included in the palette of colors is printed and the other colors are disabled*); c) with the printer, printing the non-disabled color or colors of the image onto a substrate (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]).

Abram et al does not specifically teach d) acting upon the substrate from c) to add artistic elements to the substrate to produce artwork.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 3, Abram teaches a method, printing onto a substrate of paper or canvas (Fig. 9, S925) (page 3, paragraph [0040]).

Regarding Claim 5, Abram et al does not specifically teach a method, practiced by manually applying colored paints to spaced portions of the substrate.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 6, Abram et al does not specifically teach a method, practiced by manually applying texture to spaced portions of the substrate using a palette knife, eye-dropper, or the like.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 7, Abram et al teaches a method, practiced to fully disable one or more colors (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it is being interpreted by the examiner that the user selects the*

colors to be printed or not printed on the story board, therefore the users determines by programming the palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled).

Regarding Claim 8, Abram et al teaches a method, practiced to only partially disable one or more (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it is being interpreted by the examiner that the user selects the colors to be printed or not printed on the story board, therefore the users determines by programming the palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled).*

Regarding Claim 9, Abram et al teaches a method, practiced to disable black and near black (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable,*

it is being interpreted by the examiner that the user selects the colors to be printed or not printed on the story board, therefore the users determines by programming the palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled).

Regarding Claim 10, Abram et al teaches a method, using a thermal ink-jet printer (printer) (page 2, paragraph [0029].

Regarding Claim 12, Abram et al teach a method, wherein the multicolor image of a) is a digital photograph (digital image) (page 2, paragraph [0025]).

Abram et al does not specifically teach wherein d) is practiced to manually acting on the substrate.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 13, Abram teaches wherein the digital photograph is taken by an artist and input into the computer by the artist (digital image) (page 2, paragraph [0025]).

Abram et al does not specifically teach wherein a)-d) is practiced to produce a pseudo-abstract final art work.

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As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods. Abram teaches a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book (page 2, paragraph [0028]). *It is being interpreted by the examiner that the coloring book image is the pseudo-abstract art since some of the color is already filled in. The rest of the coloring book image is completed by the user after it is printed out.*

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 14, Abram et al teaches a method, practiced to disable black and near black (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it is being interpreted by the examiner that the user selects the colors to be printed or not printed on the story board, therefore the users determines by programming the palette as to the colors to be abled or disabled. The colors not*

included in the color palette are disabled and the colors included in the color palette are abled).

Regarding Claim 15, Abram teaches a piece of paper or canvas comprising a pseudo-abstract art work (coloring book image printed) (page 3, paragraph [0040]).

Regarding Claim 16, Abram et al does not specifically teach a method used in a curriculum to teach art to children.

As is well known, coloring books have been in use for many years to teach children how to color and stay "between-the-lines".

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the printed coloring book image to teach student how to color.

Regarding Claim 17, Abram et al teaches a method wherein b) is practiced using software in a computer controlling a printer (Fig. 2, computer system 200) (page 2, paragraph [0029]).

Regarding Claim 20, Abram et al teaches a method of producing a work of art using a thermal ink-jet printer having an active black ink cartridge and at least one active primary color ink cartridge, and controlled by a computer, comprising: a) inputting or selecting a multicolor image so that it is provided in the computer (user loads a digital image into a client) (page 2, paragraph [0025]); b) controlling the printer with software (cpu coupled to printer) (page 2, paragraph [0029]), to disable from about 80-100% the capability of the printer to print black and near black while not significantly disturbing operation of the active primary colors

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cartridge (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed, which may or may not include black and the percentage of black to be used);* c) with the printer, printing a substantially accurate representation of the image, but without about 80-100% of the black and near black onto a substrate of paper or canvas (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]) *(It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed, which may or may not include black and the percentage of black to be used).*

Abram et al does not specifically teach d) further acting upon the substrate to manually act upon the substrate acting upon the substrate from c) to manually add artistic elements to the substrate to produce an artwork.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 21, Abram does not specifically teach a method wherein d) is practiced by manually adding acrylic paint to spaced portions of the substrate to provide colors and textures not present in the original image.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 22, Abram et al teaches a method, wherein c) is practiced so that the substrate is at least thirty pound matte paper (Fig. 9, S925) (coloring book image printed) (page 3, paragraph [0040]), and wherein a) is practiced by using a digital color photogram as the image (user loads a digital image into a client) (page 2, paragraph [0025]).

Regarding Claim 23, Abram et al does not specifically teach a method, wherein d) is further practiced by adding illustrated objects foreign materials or effects to spaced portions of the substrate.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 24, Abram et al teaches a method of teaching art to children using a computer-controlled printer capable of printing at least three colors, comprising: a) inputting or selecting a multicolor image so that it is provided in the computer (user loads a digital image into a client) (page 2, paragraph [0025]); b) selectively disabling one or more of the colors, while not disabling all of the colors besides black, of the printer to insure little or none of the one or more disabled colors is printed by the printer (a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]) *(it is being interpreted by the examiner that only those colors included in the palette of colors is printed and the other colors are disabled)*; c) with the printer, printing the non-disabled color or colors of the image onto a substrate (a fixed or programmable palette of colors may be assigned to image

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areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]) *(it is being interpreted by the examiner that only those colors included in the palette of colors is printed and the other colors are disabled).*

Abram et al does not specifically teach d) instructing the children to manually act upon the substrate acting upon the substrate from c) to manually add artistic elements to the substrate to produce artwork.

As is well known, the purpose of a coloring book is to allow a user to manually color the image. This may involve paints, crayons, markers or many other methods.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to let the user color the printed color book image as they wish.

Regarding Claim 25, Abram et al teaches a method, wherein b) is practiced to disable from about 80-100% the capability of the printer to print black and near black (that a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book) (page 2, paragraph [0028]). *(It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the examiner that only those colors*

included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed, which may or may not include black and the percentage of black to be used).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abram et al in view of Kohno (US 6,749,282).

Regarding Claim 11, Abram et al fails to teach using an ink-jet printer having a black ink cartridge as well as at least one primary color ink cartridge; and removing the active black ink cartridge from the printer to thereby disable printing with black ink.

Kohno teaches a method, using an ink-jet printer having a black ink cartridge as well as at least one primary color ink cartridge (head cartridge 200); removing the active black ink cartridge from the printer to thereby disable printing with black ink (removing ink tanks) (col. 5, lines 43-59).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Abram with the teaching of Kohno to allow for the removal of the black ink tank to prevent monochrome printing.

(10) Response to Argument

Appellant, on page 4, 1st paragraph, argues that Abram does not teach producing a piece of artwork using a computer controlled color printer capable of printing at least three colors.

In response, Abram at page 3, paragraph [0043], teaches ***“where the line art image is formatted with stock images to produce a coloring book story board. In this embodiment a color index is formatted with the line art image. The client may then print out the coloring book story board”*** (page 4, paragraph [0045]). It is being interpreted by the examiner that if the color index is formatted with the line art image, it is also output with the storyboard. The color index is printed in color (Fig. 7, index 705). Since ***“the digital image is any digital image such as, for example, an eight-bit or sixteen-bit grayscale image, an eight-bit duotone image, an eight-bit paletted image, a sixteen-bit, twenty-four-bit, thirty-two-bit, or forty-eight-bit color image, or the like”*** (interpreted as being are at least three colors) (page 2, paragraph [0025]) and ***“the line-art image may be rendered from the digital image”*** (page 2, paragraph [0025]), it is interpreted by the examiner that the color index output with the line art image and is printed in more than 3 colors. Also, on page 2, paragraph [0028], Abram teaches ***“that the color index number and color”*** (not the name of the color) ***“is printed with the coloring book image”***. Additionally, in the same paragraph, Abram teaches that ***“a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images.

Appellant, on page 5, 3rd paragraph, argues that Abram does not teach selectively disabling one or more of the colors.

In response, Abram at page 2, paragraph [0028] teaches ***“that a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed on the storyboard, therefore the user determines by programming the palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled.

Appellant, on page 5, 5th paragraph, argues that Abram does not teach not disabling all of the colors beside black.

In response, it is being interpreted by the examiner that if only the color index and line art image is being printed, the other colors are disabled. Abram at page 2, paragraph [0031], teaches that ***“the color samples represent only the paletted colors of image areas of the original digital image”***. On page 2, paragraph [0028], Abram ***“teaches that a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It

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is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed on the storyboard, therefore the user determines by programming the palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled.

Appellant, on page 5, 5th paragraph, argues that Abram does not teach not printing black or near black.

In response, it is being interpreted by the examiner that if only the color index and line art image is being printed, the other colors are disabled. Abram at page 2, paragraph [0031], teaches that ***"the color samples represent only the paletted colors of image areas of the original digital image"***. If black is not one of the sampled colors, it will not be printed and therefore disabled. Additionally, on page 2, paragraph [0028], Abram teaches ***"that a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book"***. It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being

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interpreted by the examiner that the user selects the colors to be printed or not printed, which may or may not include black.

Appellant, on page 7, 2nd paragraph, argues that Abram does not teach a thermal inkjet printer having an active black inject cartridge and at least one active primary color inkjet cartridge is provided.

In response, the above limitation is recited in the preamble of the claim and the examiner is depending on the body of the claim for completeness since the process steps or structural limitations are able to stand alone. Inkjet printing is a well known standard printing process and has been in use for many years.

Appellant, on page 7, 3rd paragraph, argues that Abram does not teach b) removing the active black ink cartridge from the printer, or controlling the printer with software, to disable from about 80-100% the capability of the printer to print black and near black while not significantly disturbing operation of the active primary colors cartridge; c) with the printer, printing a substantially accurate representation of the image, but without about 80-100% of the black and near black, onto a substrate.

In response, on page 2, paragraph [0028], Abram teaches ***“that a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the

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examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed, which may or may not include black and the percentage of black to be used.

Appellant, on page 9, 1st paragraph, argues that Abram does not teach manually applying texture to spaced portions of the substrate using a palette knife, eye-dropper, or the like.

In response, once the image has been printed out onto the substrate, the user can use any method to color in the image.

Appellant, on page 9, 1st paragraph, argues that Abram does not teach partial disabling of one or more colors.

In response, on page 2, paragraph [0028], Abram teaches that ***“a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It is being interpreted by the examiner that the coloring book contains both color and monochrome images since it contains both the line art images and the coloring book images. It is being interpreted by the examiner that only those colors included in the palette of colors are printed and the other colors are disabled. Since the palette is programmable, it being interpreted by the examiner that the user selects the colors to be printed or not printed on the storyboard, therefore the user determines by programming the

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palette as to the colors to be abled or disabled. The colors not included in the color palette are disabled and the colors included in the color palette are abled.

Appellant, on page 9, 1st paragraph, argues that Abram does not teach using a thermal ink jet printer.

In response, it is being interpreted that a standard printing process includes ink jet printing since it is a well known standard printing process and has been in use for many years.

Appellant, on page 9, 1st paragraph, argues that Abram does not teach producing pseudo-abstract art.

In response, on page 2, paragraph [0028], Abram teaches that ***“a fixed or programmable palette of colors may be assigned to image areas of the coloring book image. These coloring book images are combined with the line-art images to generate a storyboard and the storyboard is printed in the form of a coloring book”***. It is being interpreted by the examiner that the coloring book image is the pseudo-abstract art since some of the color is already filled in. The rest of the coloring book image is completed by the user after it is printed out.

Appellant, on page 10, 1st paragraph, argues that Abram does not teach using the method in a curriculum to teach art to children and using at least 30lb. matte paper.

In response, coloring books have been in use for many years to teach children how to color and stay “between-the-lines”, etc. These coloring book images can be printed on all different types of media.

Appellant, on page 9, last paragraph - page 11, argues that Abram does not teach printing while removing the black ink cartridge.

In response, in column 5, lines 43-59, Kohno teaches “***that the ink tanks can be attached or removed from the head cartridge. The form of the head cartridge and the form of attachment are not limited to what is shown in Fig. 3 and that the head cartridge may be attached to the carriage depending on the purpose of the printing***”. It is being interpreted by the examiner that if the purpose of the printing is to print without using black ink, the ink tanks in the head cartridge will not include a black ink tank.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Satwant Singh/

Satwant Singh

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/David K Moore/

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